

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

Tony Fountain #152157

Plaintiff,

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CLERK OF COURT CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF ALA

Case no: 2:06-CV-548-  
MHT

VS.

DR. PESENT, et. al.  
Defendants.

REQUEST FOR PHYSICAL EXAMINATION  
PURSUANT TO RULE 35 (d) Fed.R.Civ.P.

Comes now, Tony Fountain, by and through him-self herein moves this Honorable Court pursuant to Rule 35 (d) Fed. R. Civ. P. for the issuance of an order, directing the defendants named in this action and theirs agents acting in direct concert with them to take plaintiff to a suitably licensed or certified examiner, who are capable of diagnosing and treating plaintiff symptoms. See (attached affidavit in support of this request) Plaintiff contends this court should consider this request in conjunction with his petition for an Emergency injunction and his remaining claims in this case. And asserts the following facts

in support of (s)his request to wit. \*

1). plaintiff stresses the facts that his physical health and life along with his eye-sight is in controversy here. And that the symptoms he's experiencing of seeing blood in my stool (spots of blood) has progressed to the point now that I'm seeing/noticing Clots of Individual blood after defecating. Dr. peasant informed me on June 6 2006 that he had requested a Colonostic examine on me, and he further stated that "you are in fact experiencing more bleeding than you were on my first prostate examine. And that he couldn't do nothing else for me without a Colonostic determination.

2). plaintiff further contends that he has yet to be taken out for a Colonostic examine as of this date and that his symptoms has worsen since February 20, 2006. And that his eye-sight has also worsen since his Filing of Complaint with the warden (see attached Exhibit - 6 of plaintiff). Plaintiff stress the the facts that he's unable to read his letter from his Family and this Court orders, along with books without having to borrow

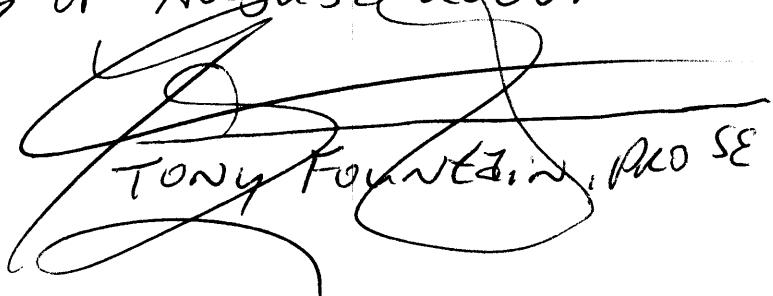
another inmate glasses. And that his eye-sight (close-up vision) have gone bad, in which he had signed up once to see the Eye-doctor. In which the defendants had deducted checks co-payment and insist that plaintiff continue to sign-up to see the Eye Doctor, the Eye doctor have been to the prison on many occasions and I have yet to be seen by him. Plaintiff had filed a complaint with the warden (already before this court) only to be informed that he didn't meet the criteria. A response by a nurse by the name of Ellis. In which he said in a note (attached, Exhibit-6) stating that I didn't meet the criteria which is 20/40 or greater" and that my vision was 20/25. However, plaintiff contends that he was never given an eye-examine on the day he signed up for the eye doctor. And that he was only told by the nurses to watch the prison news letter for an appointment. Plaintiff further stress the point that he don't know where nurse Ellis got those numbers 20/25 from, he gave the warden in response to my complaint filed with the warden on 4-5-06. And that he had the opportunity the day after nurse response and he asked nurse Ellis where did he get that

numbers from he gave the warden and nurse  
Ellis responded "I don't know where I got that  
number from" if you would given an eye ex-  
-amine".

3). Plaintiff contends that his physical health  
and life is at controversy here along with  
his Eye-sight, therefore he's requesting an  
examination pursuant to Rule 35 (g), Fed.  
R.Civ.P.

Wherefore, plaintiff, prays that (g) his motion  
for a physical examination be hereby "Granted"  
as law and justice requires pursuant to  
Rule 35 (g) Fed.R.Civ.P. .

Done this 7th day of August 2006.



Tony Fountain, P.C. SE